

STATE OF INDIANA)
) SS:
COUNTY OF HOWARD)

IN THE HOWARD SUPERIOR COURT 3
Cause No. 34D03-9506 CP 133

STATE OF INDIANA,

Plaintiff,

v.

TROY A. PEARSON, doing business as
The Photo Barn,

Defendant.



VERIFIED COMPLAINT FOR INJUNCTION AND DAMAGES

The State of Indiana, by Attorney General Pamela Carter and Deputy Attorney General Michael A. Beason, petitions the court pursuant to the Indiana Deceptive Consumer Sales Act, Ind. Code 24-5-0.5-1 *et seq.*, for injunctive relief, restitution, civil penalties, investigative costs, and other relief.

PARTIES

1. The defendant, Troy A. Pearson, is an individual formerly having a principal place of business in Howard County located at 1712 West Boulevard, Kokomo, IN 46902. At all relevant times defendant was engaged in the business of soliciting and selling photographs and photographic services.

FACTS

2. At least since April 12, 1993, the defendant solicited money for the sale of photographs and photographic services, including family portraits, individual sittings, weddings,

and class reunions, to individuals. Defendant offered to photograph each individual or group and sell reproductions of said portraits to individuals and group members.

3. The defendant knowingly and intentionally induced consumers to purchase the photographs and photographic services.

4. The defendant solicited and entered into contracts for the sale of photographs and photographic services with Indiana consumers, including but not limited to:

<u>CONSUMER</u>	<u>CONTRACT DATE</u>	<u>SUMS PAID</u>
a. Teresa Williams	June 1994	\$ 150.00
b. Michael A. Miller	August 20, 1994	\$ 75.00
c. Nancy J. Waldon	June 14, 1994	\$ 150.00
d. Pam Lindley	August 13, 1994	\$ 10.00
e. Jeannine Vonderahe	August 13, 1994	\$ 10.00
f. Cindy Davis	August 13, 1994	\$ 10.00
g. Mary Jane Hillis	August 13, 1994	\$ 10.00
h. Sally Marner Wallace	August 13, 1994	\$ 10.00
i. Joe Orr	August 13, 1994	\$ 10.00
j. Janet Philips	August 13, 1994	\$ 10.00
k. Bob Schroeder	August 13, 1994	\$ 10.00
l. Donna Harmon	August 13, 1994	\$ 10.00
m. Keith Rogers	August 13, 1994	\$ 10.00
n. Mike Varnau	August 13, 1994	\$ 10.00
o. Cris Randall	August 13, 1994	\$ 10.00
p. Mark Crites	August 13, 1994	\$ 10.00
q. David Kelly	August 13, 1994	\$ 10.00
r. Larry Beach	August 13, 1994	\$ 10.00
s. David Stewart	August 13, 1994	\$ 10.00
t. Ed Reinke	August 13, 1994	\$ 10.00
u. Dianna Osborne	August 13, 1994	\$ 10.00
v. Debra Sipes	August 13, 1994	\$ 10.00
w. Lana Schneider	August 13, 1994	\$ 10.00
x. Denise Johnson	August 13, 1994	\$ 10.00
y. Larry Smith	August 13, 1994	\$ 10.00
z. Marta Ward	August 13, 1994	\$ 10.00
aa. Gwen Webb	August 13, 1994	\$ 10.00
bb. Janice Stunkard	August 13, 1994	\$ 10.00
cc. Donna Mitchell-Wood	August 13, 1994	\$ 10.00
dd. Mary Felts	August 13, 1994	\$ 10.00
ee. Marylou Pumroy	August 13, 1994	\$ 10.00

ff.	Linda Montgomery	August 13, 1994	\$ 10.00
gg.	Monty Maggart	August 13, 1994	\$ 10.00
hh.	Bill Lovelace	August 13, 1994	\$ 10.00
ii.	Patricia Hummel	August 13, 1994	\$ 10.00
jj.	Max Hensley	August 13, 1994	\$ 10.00
kk.	David Niederhaus	August 13, 1994	\$ 10.00
ll.	Teresa Van Oordt	August 13, 1994	\$ 10.00
mm.	Gail Rinehart Flack	August 13, 1994	\$ 10.00
nn.	Cheryl Brunger	August 13, 1994	\$ 10.00
oo.	Mike Sutherland	August 13, 1994	\$ 10.00
pp.	Tosha R. Rogers	July 11, 1994	\$ 163.00
qq.	Pamela A. Roe	September 7, 1993	\$1100.00
rr.	Debora K. Humphries	April 12, 1993	\$ 250.00
ss.	Robert M. Graham, Jr.	August 10, 1994	\$ 135.00
tt.	Diana Coomer	July 11, 1994	\$ 202.50
uu.	Deborah D. Rawls	August 9, 1994	\$ 230.00
vv.	Vada Shirbroun	February 19, 1994	\$1136.50
ww.	Linda S. Saul	July 26, 1994	\$ 172.00

5. As part of his solicitation of consumers, including those identified in paragraph 4 above, the defendant made representations, expressly or by implication, that defendant could deliver purchased photographs within approximately four weeks following the sitting or viewing of the proofs.

6. The representations made by the defendant were false, misleading, and were made with knowledge and intent to deceive.

7. The defendant failed to deliver the photographs to consumers.

VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

8. The solicitations and transactions referred to in paragraphs 2 through 4 above are "consumer transactions" as defined by Ind. Code 24-5-0.5-2(1).

9. The defendant is a "supplier" as defined in Ind. Code 24-5-0.5-2(3).

10. The defendant's misrepresentations referred to in paragraph 5 above violate the Indiana Deceptive Consumer Sales Act, Ind. Code 24-5-0.5-1 *et seq.*, in that the defendant knew

or should have known that he was not able to deliver the photographs within the time represented.

11. The misrepresentations made by the defendant constitute "incurable deceptive acts" as defined by Ind. Code 24-5-0.5-2(7).

IRREPARABLE INJURY

12. The misrepresentations set forth above will continue and will cause irreparable injury unless the defendant is enjoined from engaging in further conduct in violation of Ind. Code 24-5-0.5-1 *et seq.*

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests that the Court enter judgment against the defendant as follows:

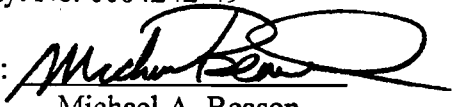
- a. A permanent injunction pursuant to Ind. Code 24-5-0.5-4(c)(1), enjoining the defendant, his agents, representatives, employees, successors, and assigns, from engaging in conduct in violation of Ind. Code 24-5-0.5-1 *et seq.*;
- b. Cancellation of contracts pursuant to Ind. Code 24-5-0.5-4(d);
- c. Consumer restitution pursuant to Ind. Code 24-5-0.5-4(c)(2), for reimbursement of all deposits, down payments and other funds remitted by consumers for photographs and photographic services including, but not limited to, the persons identified in paragraph 6, in the sum of not less than Four Thousand One Hundred Forty-Four Dollars (\$4,144.00);
- d. Costs pursuant to Ind. Code 24-5-0.5-4(c)(3), awarding the State of Indiana its reasonable expenses incurred in the investigation and prosecution of this action;

- e. Civil penalties pursuant to Ind. Code 24-5-0.5-4(g), for defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana;
- f. Civil penalties pursuant to Ind. Code 24-5-0.5-8, for defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the state of Indiana;
- g. All other proper relief.

Respectfully submitted,

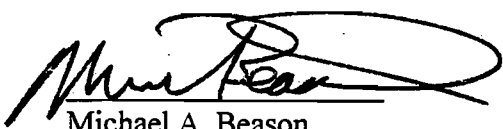
PAMELA CARTER
Attorney General of Indiana
Atty. No. 0004242-49

By:


Michael A. Beason
Deputy Attorney General
Atty. No. 0015033-49

VERIFICATION

I affirm under the penalties for perjury that I have read the foregoing Verified Complaint for Injunction and Damages and that the representations are true.


Michael A. Beason
Deputy Attorney General
Atty. No. 0015033-49

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